

(a) If so, give name and location of court that imposed the other sentence you will serve in the future: N/A

(b) Give the date the other sentence was imposed: N/A

(c) Give the length of the other sentence: N/A

(d) Have you filed, or do you plan to file, any petition that challenges the judgment or sentence to be served in the future? Yes ☐ No ☒

18. TIMELINESS OF PETITION: If your judgment of conviction became final over one year ago, you must explain why the one-year statute of limitations as contained in 28 U.S.C. § 2244(d) does not bar your petition.* The time during which a properly filed application for State Post-Conviction or other collateral review with respect to the pertinent judgment or claim is pending shall not be counted toward any period of limitation under this subsection

* The Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA") as contained in 28 U.S.C. § 2244(d) provides in part that:

- (1) A one-year period of limitation shall apply to an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court. The limitation period shall run from the latest of —

(continued...)

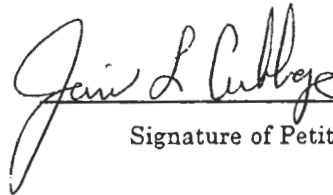
Therefore, petitioner asks that the Court grant the following relief: See Attachment "F"

or any other relief to which petitioner may be entitled.

Signature of Attorney (if any)

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct and that this Petition for Writ of Habeas Corpus was placed in the prison mailing system on December 22, 2005 (month, date, year).

Executed (signed) on 12-22-05 (date).



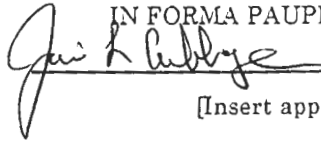
Signature of Petitioner

*(...continued)

- (A) the date on which the judgment became final by the conclusion of direct review or the expiration of the time for seeking such review;
 - (B) the date on which the impediment to filing an application created by State action in violation of the Constitution or laws of the United States is removed, if the applicant was prevented from filing by such state action;
 - (C) the date on which the constitutional right asserted was initially recognized by the Supreme Court, if the right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or
 - (D) the date on which the factual predicate of the claim or claims presented could have been discovered through the exercise of due diligence.
- (2) The time during which a properly filed application for State post-conviction or other collateral review with respect to the pertinent judgment or claim is pending shall not be counted toward any period of limitation under this subsection.

If the person signing is not petitioner, state relationship to petitioner and explain why petitioner is not signing this petition. N/A

IN FORMA PAUPERIS DECLARATION



[Insert appropriate court]

* * * * *

11. (a) (5) Grounds raised:

1. The defendant's Due Process of Law was violated when the defense was misled into proceeding into trial unprepared because of non-disclosure
2. The defendant's Right to Confrontation was violated when the Trial Judge abused its discretion and limited the cross-examination of a Codefendant
3. The defendant's Due Process of Law was violated when the State submitted false and prejudicial evidence to gain a conviction
4. The defendant's Due Process of Law was violated when the State solicited false testimony from the Chief investigating officer
5. The defendant's Due Process of Law was violated due to prosecutor misconduct of impermissible cross-examination on defendant's Post-arrest Silence
6. Ineffective assistance of counsel: Defense attorney failed to prepare for trial
7. Ineffective assistance of counsel: Defense attorney failed to obtain Criminal record of a Codefendant
8. Ineffective assistance of counsel: Defense attorney failed to impeach Detective Hudson's trial testimony
9. Ineffective assistance of counsel: Defense attorney failed to raise issue of prosecutor's failure to disclose statements under Rule 16 on direct appeal

Attachment "A"

CAUTION: To proceed in the federal court, you must ordinarily first exhaust (use up) your available state-court remedies on each ground on which you request action by the federal court. Also, if you fail to set forth all the grounds in this petition, you may be barred from presenting additional grounds at a later date.

Ground Five :: Ineffective assistance of Counsel: Defense
attorney failed to prepare for trial

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

Mr. Brady failed to investigate and prepare for trial. Mr. Brady failed to file for discovery to obtain codefendant Wilson's statements after being asked by defendant and the defense was unable to prepare a defense for Wilson's damaging trial testimony

(b) If you did not exhaust your state remedies on Ground Five explain why: N/A

(c) Direct Appeal of Ground Five

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐ No ☒

(2) If you did not raise this issue in your direct appeal, explain why: Ineffective assistance of Counsel cannot be raised on direct appeal.

(d) Post-Conviction Proceedings:

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court? Yes ☒ No ☐

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: Post-Conviction motion

Name and location of the court where the motion or petition was filed: Superior Court of the State of Delaware, Sussex County, Georgetown, Ar. 19947

Attachment "B"

Docket or case number (if you know): 0202007080

Date of the court's decision: April 13, 2005

Result (attach a copy of the court's opinion or order, if available): Conviction and Sentence affirmed

(3) Did you receive a hearing on your motion or petition?

Yes ☐ No ☒

(4) Did you appeal from the denial of your motion or petition?

Yes ☒ No ☐

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

Yes ☒ No ☐

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: Supreme Court of Delaware Dover, De. 19901

Docket or case number (if you know): Cabbage v. State, 168, 2005

Date of the court's decision: September 20, 2005

Result (attach a copy of the court's opinion or order, if available): Conviction and Sentence affirmed

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue: N/A

(e) Other Remedies: Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Five. N/A

GROUND SIX: Ineffective assistance of counsel: Defense attorney failed to obtain criminal record of a codefendant

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):
Mr. Brady failed to investigate and prepare for trial by failing to obtain Wilson's criminal record which has a conviction for shoplifting and could have impeached Wilson's trial testimony

Attachment "C"

(b) If you did not exhaust your state remedies on Ground Six, explain why: N/A

(c) Direct Appeal of Ground Six

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐ No ☒

(2) If you did not raise this issue in your direct appeal, explain why: Ineffective Assistance of Counsel cannot be raised on direct appeal

(d) Post-Conviction Proceedings:

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

Yes ☒ No ☐

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: Post Conviction motion

Name and location of the court where the motion or petition was filed: Superior Court of the State of Delaware, Sussex County, Georgetown, De. 19947

Docket or case number (if you know): 0202007080

Date of the court's decision: April 13, 2005

Result (attach a copy of the court's opinion or order, if available): Conviction and Sentence Affirmed

(3) Did you receive a hearing on your motion or petition?

Yes ☐ No ☒

(4) Did you appeal from the denial of your motion or petition?

Yes ☒ No ☐

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

Yes ☒ No ☐

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: Supreme Court of Delaware Dover, De. 19901

Attachment "D"

Docket or case number (if you know): Cobbage v. State, 168, 2005

Date of the court's decision: September 20, 2005

Result (attach a copy of the court's opinion or order, if available): Conviction and sentence affirmed

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue: N/A

(e) Other Remedies: Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Six: N/A

GROUND seven: Ineffective assistance of Counsel: Defense Attorney failed to impeach Detective Hudson's trial testimony

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

Mr. Brady failed to impeach Detective Hudson's trial testimony that the bag of items were evidence with his prior preliminary hearing testimony that the only evidence he had against the defendant, as far as physical or identification evidence, was the statements of the codefendants.

(b) If you did not exhaust your state remedies on Ground Seven explain why: N/A

(c) Direct Appeal of Ground Seven

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐ No ☒

(2) If you did not raise this issue in your direct appeal, explain why: Ineffective assistance of Counsel cannot be raised on direct appeal

Attachment "E"

(d) Post-Conviction Proceedings:

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court? Yes ☒ No ☐

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: Post-Conviction Motion

Name and location of the court where the motion or petition was filed: Superior Court of the State of Delaware, Sussex County, Georgetown, De. 19947

Docket or case number (if you know): 0202007080

Date of the court's decision: April 13, 2005

Result (attach a copy of the court's opinion or order, if available): Conviction and Sentence affirmed

(3) Did you receive a hearing on your motion or petition?

Yes ☐ No ☒

(4) Did you appeal from the denial of your motion or petition?

Yes ☒ No ☐

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

Yes ☒ No ☐

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: Supreme Court of Delaware, Dover, De. 19901

Docket or case number (if you know): Cabbage v. State, 168, 2005

Date of the court's decision: September 20, 2005

Result (attach a copy of the court's opinion or order, if available): Conviction and Sentence affirmed

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue: N/A

(e) Other Remedies: Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground seven: N/A

Attachment "F"

GROUND ~~eight~~ Ineffective assistance of counsel: Defense

Attorney failed to raise issue of prosecutor's failure to disclose under Rule 16 on direct appeal

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

Mr. Brady failed to raise the State's failure to disclose
Statements under Rule on direct appeal after being asked
by the defendant to raise the issue.

(b) If you did not exhaust your state remedies on Ground ~~eight~~, explain why: n/A

(c) Direct Appeal of Ground ~~eight~~.

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐ No ☒

(2) If you did not raise this issue in your direct appeal, explain why: Ineffective
assistance of Counsel cannot be raised on direct appeal

(d) Post-Conviction Proceedings:

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court? Yes ☒ No ☐

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: Post-Conviction Motion

Name and location of the court where the motion or petition was filed: Superior Court of
the State of Delaware, Sussex County, Georgetown, De. 19947

Docket or case number (if you know): 0202007080

Date of the court's decision: April 13, 2005

Result (attach a copy of the court's opinion or order, if available): Conviction and
Sentence affirmed

(3) Did you receive a hearing on your motion or petition?

Yes ☐ No ☒

(4) Did you appeal from the denial of your motion or petition?

Yes ☒ No ☐

Attachment "G"

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

Yes ☒ No ☐

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: Supreme Court of Delaware
Dover, De. 19901

Docket or case number (if you know): Cobbage v. State, 168, 2005

Date of the court's decision: September 20, 2005

Result (attach a copy of the court's opinion or order, if available): Conviction and
Sentence Affirmed

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue: N/A

(e) Other Remedies: Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Eight _____

N/A

Please answer these additional questions about the petition you are filing:

(a) Have all grounds for relief that you have raised in this petition been presented to the highest state court having jurisdiction? Yes ☒ No ☐

If your answer is "No," state which grounds have not been so presented and give your reason(s) for not presenting them: N/A

(b) Is there any ground in this petition that has not been presented in some state or federal court? If so, which ground or grounds have not been presented, and state your reasons for not presenting them: N/A

Have you previously filed any type of petition, application, or motion in a federal court regarding the conviction that you challenge in this petition? Yes ☐ No ☒

Attachment "H"

Therefore, petitioner asks that the Court grant the following relief:

1. Order an evidentiary hearing and appoint Counsel for the petitioner;
2. Grant the writ of habeas corpus, reverse Petitioner's Conviction, and order a new trial;
3. Petitioner reserves the right to amend / supplement this motion with a memorandum of law; and
4. grant all other appropriate relief

Attachment "I"